IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 29220 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DILKHUSBHAI VALLABHBHAI RADIA - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR JAYESH A KOTECHA for Petitioner(s) : 1,
Mr.L.R.Pujari, AGP for Respondent no.1
None for respondents nos : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 18/12/2007

ORAL JUDGMENT

1. Rule. Learned A.G.P. Mr. L.R.Pujari waives service on behalf of the respondent no.1.
2. By way of this petition, the present petitioner

has challenged the impugned order passed by the respondent no.3-Deputy Collector(Stamps),Stamp Valuation Department, Block no.1, 7/5, Multi-storeyed Building, Rajkot dated 27-9-2001.

3. Heard the learned advocate for the petitioner and Mr. L.R.Pujari, AGP for the respondent no.1.

4. It is submitted by the learned advocate for the petitioner that without giving any details regarding determination of market value, in printed form, order was passed by the respondent no.3, in a casual manner. It is submitted by him that after taking into consideration certain principles regarding determining the market value of the land, he has passed the impugned order on the basis of which the respondent no.3 has valued the property in question at Rs,8,24,309/-,and therefore, deficit stamp duty of Rs.52,440/- and fine of Rs.250/- was required to be paid to the authorities. A notice was accordingly sent to the petitioner on 14-8-2001. It is submitted by him that the respondent authority has not considered the fact that the petitioner has purchased the property in question by paying Rs.3,00,000/- at a market value and the respondent authority has also not considered the market value was per Jantri decided by the State. Therefore, it is prayed that the decision of the respondent authorities is required to be quashed and set aside.

5. In support of his submission, the learned Advocate has placed reliance on – (i) 2003(1)

GLR 454 Vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat) and (ii) 2006 (3) GLR 2252 (Mayurkumar J.Patel v. Dy. Collector, Stamp Duty Valuation Department, Rajkot).

6. In the above decisions, it is held by this Court that without giving any reasons and without applying mind towards any of the defences raised by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one or two sentences have been added. It is also held by this Court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the Court in the aforesaid decision.

7. The respondent Collector has passed final order on 27-9-2001. The appeal of the petitioner was rejected by the said authority by communications dated 8-4-2006 on the ground of limitation without giving an opportunity hearing.

8. Considering the facts and circumstances of the case, it is apparent that the impugned order is in printed form and only some gaps have been filled up by the authorities without giving any reasons. This clearly shows total non-application of mind on the part of the respondent-atuhorities. Under these circumstances, the impugned orders are required to be quashed and set aside.

9. In the result, the petition is allowed. The

impugned order dated 27-9-2001 passed by the respondent no.3 as also communication dated 8-4-2006 passed by the appellate authority in appeal are quashed and set aside. Consequently, the matter is remanded to the respondent no.3 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. The respondent no.3 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

10. Rule is made absolute to the aforesaid extent. No order as to costs.

(M.D.Shah,J.)

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